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AICPA *Washington Report*

January 13, 1986, Volume XV, Issue 2

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OFFICE OF MANAGEMENT AND BUDGET

All Federal agencies responsible for administering the provisions of Circular A-87, Cost Principles of State and Local Governments, and OMB A-128, Audits of State and Local Governments, are listed in a recent publication from OMB (see the 1/6/86 Fed. Reg., pp. 551-562). This revised list, according to OMB, combines assignments and makes one Federal agency responsible for both requirements. For further information contact Marvin Saunders at 202/395-3993.

SECURITIES AND EXCHANGE COMMISSION

Edward H. Fleischman was sworn in 1/6/86 as a Commissioner of the Securities and Exchange Commission following 12/16/85 Senate confirmation of his nomination by President Reagan. With his swearing in, the last vacancy on the SEC was filled. Mr. Fleischman succeeds Former SEC Commissioner James C. Treadway, Jr. During his confirmation hearing before the Senate Banking, Housing and Urban Affairs Committee (see the 11/18/85 Wash. Rpt.), Mr. Fleischman acknowledged the existence of problems created by the civil treble damage suits filed against members of the financial community under the Racketeering Influenced and Corrupt Organizations Act (RICO). He said it has been the experience of the financial service industry that RICO has been used to circumvent other securities laws. He also answered questions about the SEC as an independent, regulatory agency and corporate takeovers. Mr. Fleischman's term expires 6/5/87.

TREASURY, DEPARTMENT OF

Proposed amendments regarding tax treatment of qualified real estate agents and direct sellers, employer liability for income tax withholding and employee Social Security taxes and information reporting of direct sales and payments of remuneration for services have been issued by the IRS (see the 1/7/86 Fed. Reg., pp. 619-27). Sections 3508 and 3509 of the Employment Tax Regulations relate to tax treatment of realtors and employer liability for income tax withholding and employee Social Security respectively. Sections 6041A of the Income Tax Regulations relates to information reporting of direct sales and payments of remuneration for services. Comments and requests for a public hearing must be delivered or mailed by 3/10/86. For further information contact Robert E. Shaw at 202/566-3297.

The appointment of Kevin Dolan, a former partner in the International Services Office of Arthur Young and Company, to Associate Chief Counsel (International) was announced by the IRS on 1/3/86. In this position, Dolan will be responsible for all matters within the IRS Office of Chief Counsel relating to international taxation. Before joining Arthur Young in 1982, Dolan was associated with the law firm of Groom and Norberg. From 1979 to 1981, he was a member of the Office of International Tax Counsel in the Treasury Department. From 1977 to 1979, he was an attorney in the Legislation and Regulations Division of the IRS Office of Chief Counsel. From 1975 to 1976, Dolan was an attorney with the Securities and Exchange Commission. Dolan received his J.D. degree from the University of Michigan in 1975 and his bachelor's degree from the University of Virginia in 1973. He is a member of the District of Columbia and Virginia bars.

TREASURY, DEPARTMENT OF

Approval or denial of individual requests for exemption from the currency reporting requirements of the Bank Secrecy Act will now be vested in the IRS, as a result of a recent delegation of this authority from the Department of the Treasury. The IRS also said it is authorized to begin investigations of banks and brokers of dealers in securities for possible criminal violations of the Bank Secrecy Act. In addition, the IRS now has responsibility to assure that all banks not now examined by federal bank supervisory agencies for safety and soundness are in compliance with the currency transaction reporting requirements. Filings of currency transaction reports almost tripled during 1985 -- from an average of 60,000 per month to more than 170,000, the IRS said. Explaining the increase, the IRS credited the strong enforcement of the Bank Secrecy laws, especially in some well publicized cases in the recent past. The IRS will request from banks and other financial institutions the list of their customers who have been granted exemption from the reporting requirements. It will review these lists and direct the institutions to remove the names of customers with unacceptable exemptions and to file currency transaction reports on those customers.

In a related matter, the IRS announced that a revised Form 4789, Currency Transaction Report, will become effective on 7/1/86, for transactions of more than \$10,000. Until that date, the IRS said financial institutions can continue to file the existing Form 4789, which are available from the IRS Forms Distribution Centers. Financial institutions can obtain a copy of the newly revised Form 4789 for the purpose of developing internal procedures or making necessary computer changes by sending a request to the IRS Data Center, Attn: Currency and Banking Report Division, 1300 John C. Lodge Freeway, Detroit, MI 48226.

SPECIAL: THE PROFESSION'S CHALLENGES AND RESPONSES IN 1986

"The profession has done commendably well in meeting the challenges of our times, but there is much to do," according to a conclusion expressed by the Honorable A.A. Sommer, Jr., Vice Chairman, Public Oversight Board in an address before approximately 550 participants at the AICPA's Thirteenth Annual National Conference on Current SEC Developments in Washington, D.C. on 1/7/86. Mr. Sommer began his remarks by tracing the recent history of the profession's concerns back to the mid-seventies, touching on certain similarities and differences, especially noting that "the economics of the profession have changed; the self regulatory structure of the profession has changed radically; litigation has exploded...." Sommer stated that the profession should engage in an "insightful identification of wherein the accounting profession falls short of public expectation and a creative fashioning of means to bring expectations and performance into congruence." Sommer stated his belief that the profession has initiated efforts, beginning from a "strong base." He continued: "....the peer review program is a clear success." Sommer then cautioned the participants that "there remains the ineradicable fact that misleading financial statements are published and relied upon by investors, creditors, and others, and that some of those statements have affixed to them opinions of auditors that are wrong."

Sommer also stated that "the time has come—and the profession knows this—for the auditor to assure greater responsibility for the detection of fraud". Acknowledging an SEC Practice Section modification of second partner review, Mr. Sommer said: "It has long seemed to me that there is no procedure holding greater promise of lowering the incidence of audit failure than the second partner review conscientiously and competently done." He concluded his remarks by stating that the goals of the Public Oversight Board and the profession were the same: "to assure the highest quality of audit services attainable in our society."

SPECIAL: DRAFT OF FINANCIAL FRAUD COMMISSION REPORT DUE BY NOVEMBER

The draft report of the National Commission on Fraudulent Financial Reporting, will likely be available to the public in November of this year, according to Commission Chairman and former SEC Commissioner the Honorable James C. Treadway, Jr. in an address before the AICPA's SEC Current Developments Conference on 1/8/86. Treadway stated that he expected the draft report to be ready by November, to be followed by a 3-month period for public comments. He then suggested that approximately another three months would be required to consider the comments and write the final report together with recommendations. Areas under consideration by the Commission, whose members are characterized by Treadway as "aggressive and independent", include the deterrence of management fraud with a focus on modification of records which leads to defective financial statements. Management fraud, according to Treadway, could involve intentional acts by management or reckless conduct. The effectiveness of regulatory and law enforcement agencies will also be examined. This will encompass, but not be limited to, currently available sanctions and the role and effectiveness of related self-regulatory organizations.

Other areas of inquiry will include corporate governance, the role of internal and external auditors, and a selective look at some auditing standards. Treadway stated that the Commission would not prosecute or investigate any one company or person; not set accounting standards; not draft legislation or regulations. As to what have been the "big surprises" since the creation of the Commission, Treadway stated that Commission members are very interested in corporate codes of conduct and seem likely to make affirmative recommendations in this area. He also stated that the Commission is very interested in the role of internal auditing, suggesting perhaps a mandatory expanded role for the internal auditor under certain circumstances. Treadway concluded by stating that the Commission was dealing with issues that were controversial and sensitive and the most difficult task it faces was to issue a new report which was direct and unequivocal.

For further information contact Gina Rosasco, Shirley Hodgson, or Nick Nichols at 202/872-8190.

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